

## REMARKS/ARGUMENTS

In the final Office Action, the Examiner rejected all claims under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 6,289,314 to Matsuzaki et al (hereinafter, "Matsuzaki") in view of U.S. Patent No. 6,839,851 to Saitoh et al. (hereinafter "Saitoh"). For the reasons set forth below, applicant respectfully traverses the rejections. Reconsideration and withdrawal of the rejections is respectfully requested.

Matsuzaki teaches a server-based system in which the server keeps track of the charging and discounting of charges for content data, as seen at col.13 ll. 13-37. Terminals do not receive information concerning the discounting of charges. The Office Action correctly states that Matsuzaki fails to teach the following elements of claim 30:

    multiplexing the content data with the control message by a first information processing apparatus to produce multiplexed data and transmitting the multiplexed data via the digital broadcast transmission;

    receiving and demultiplexing the multiplexed data by a second information processing apparatus to receive the first control information and content data; and

    recording the received content data onto a recording medium by the second information processing apparatus.

As recited in claim 30, discount charge data is inserted into the control message that is then multiplexed with the content data and then transmitted and received by the second information processing apparatus.

The Office Action asserts that Matsuzaki teaches the element of inserting the discount charge data into the control message. However, Matsuzaki merely states:

"Next, the terminal information setting portion 251 sets the assigned terminal encryption key and coefficient of basic charge and terminal information as to attributes of the

terminal which are included in the initialization command (an installation place of terminal 3, a screen size, etc.) to the terminal information storing portion 252 . . . ." According to Matsuzaki, the terminal information storing portion 252, as well as a discount information storing portion is included in a terminal managing portion 25 of the server 2 (col. 15 ll.13-18). Thus, at best Matsuzaki merely describes including "a coefficient of basic charge . . . information" in an initialization command to the terminal information storing portion 252 of the server. There is no teaching in Matsuzaki that the charge information is to be provided anywhere except to the that portion 252 of the server and Matsuzaki certainly does not teach that the charge information is included in any control message being transmitted to another information processing apparatus such as terminal 3.

The Office Action further states that Saitoh teaches the elements recited in claim 30 which are not taught by Matsuzaki. Applicants respectfully traverse this assertion. The Office Action cites FIG. 5 and the passage of Saitoh at col. 5 ll.10-35 as teaching the remaining elements, specifically the multiplexing of a control message containing the discount charge data inserted therein with the content data and transmitting the multiplexed data via the digital broadcast transmission.

The cited passage of Saitoh col. 5 ll.10-35 merely describes adding a "time stamp for reproducing the time interval" to a stream being converted into a packet and transmitted. Saitoh does not disclose that the "time stamp" has anything to do with discount charge data, or that it even has any relationship to the charge placed on the delivery of content data.

Applicant respectfully submits that the disparate teachings of Matsuzaki and Saitoh cannot be combined to meet the

claim recitations of "inserting. . .discount charge data into a control message and multiplexing the content data with the control message. . .by a first information processing apparatus to produce multiplexed data and transmitting the multiplexed data via the digital broadcast transmission" because in Matsuzaki, the alleged "control message" is merely an initialization command and is not something transmittable with content data via digital broadcast transmission. Moreover, the time stamp transmitted with the stream in Saitoh has no relation to discount charge data, and is not stated as being received or used in the same way as discount charge data is recited in claim 30.

Claims 41, 61, and 63 contain recitations similar to those of claim 30 discussed above and are believed to be fully distinguished from the combination of Matsuzaki and Saitoh for at least the same reasons as discussed above.

As all other claims depend from one of claim 30, 41, 61 or 63, it is believed that all claims are fully distinguished from the cited references for at least the same reasons as discussed above.

Moreover, applicant respectfully submits that the specific recitations of 60, 62 and 64 are not met by the cited passages of Matsuzaki. None of the cited passages describes the transmission of discount charge data to a terminal which "varies inversely with the number of times the content data is used." At best, Matsuzaki merely states that the "charge calculating portion increases a discount rate of the charge for use of the pay information which is used frequently by referring to the use history when calculating the charge for use." (col. 6 ll.35-38) From this language one cannot tell how the charge decreases with use. For example, this language is consistent with a discount that increases by an amount which is not an inverse function of the number of times used.

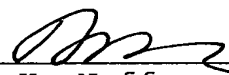
In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which the Examiner might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: May 19, 2008

Respectfully submitted,

By   
Daryl K. Neff  
Registration No.: 38 253  
LERNER, DAVID, LITTENBERG,  
KRUMHOLZ & MENTLIK, LLP  
600 South Avenue West  
Westfield, New Jersey 07090  
(908) 654-5000  
Attorney for Applicant